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Paper No. 13

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OFFICE OF PETITIONS

In re Application of
Gonzalez, et al.
Application No. 10/017,035
Filed: December 14, 2001
Attorney Docket No. SDK1P003/246

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ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed September 25, 2003 (Certificate of Mailing dated September 22, 2003).

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on November 26, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

In view of the above, the application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

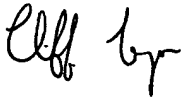
- (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded.

The application file is being forwarded to Technology Center 2800, Group Art Unit 2824, for consideration of the Response to Restriction Requirement, filed June 11, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

A handwritten signature in black ink, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



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Paper No. 12

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OFFICE OF PETITIONS

In re Application of :
Gonzalez, et al. :
Application No. 10/017,035 : ON PETITION
Filed: December 14, 2001 :
Attorney Docket No. SDK1P003/246 :

This is a decision on the paper titled "Request for Reinstatement of Patent Application", filed October 27, 2003, which is being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the Restriction Requirement mailed May 3, 2002. This Office action set a shortened statutory period for reply of one month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on June 4, 2002. A Notice of Abandonment was mailed on September 23, 2003.

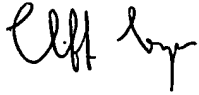
Petitioner contends that he did timely file a reply to the Restriction Requirement before the application was held abandoned on June 4, 2002. In support, petitioner has included a copy of a "Response to Restriction Requirement", bearing a Certificate of Mailing dated June 3, 2002. In addition, petitioner has included a copy of a properly itemized postcard receipt, showing that the Response to Restriction Requirement was received in the Office on June 11, 2002.¹

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

¹ A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office.. See MPEP 503.

The application file is being forwarded to Technology Center 2800, Group Art Unit 2824, for consideration of the Response to Restriction Requirement, filed June 11, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions